IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CIVIL ACTION NO. 3:06-CV-381-RJC-DCK

RONNIE A. BURRIS,)
)
Plaintiff,)
)
V.	ORDER ORDER
)
COMMISSIONER OF SOCIAL SECURITY,)
)
Defendant.)
)

THIS MATTER IS BEFORE THE COURT *sua sponte* for scheduling purposes. This case has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and is ripe for review.

Defendant filed a "Motion To Dismiss" (Document No. 4) and memorandum in support on May 16, 2007 asserting that Plaintiff's "Complaint" (Document No. 1) filed September 6, 2006, was untimely filed, and therefore should be dismissed for lack of subject matter jurisdiction. Plaintiff filed a response in opposition to the motion to dismiss (Document No. 6) on June 11, 2007. Although Plaintiff's response is unclear, it suggests either that Plaintiff contends his Complaint was timely filed, or that there may be an explanation that would constitute grounds for equitably tolling the filing period. Defendant did not file a reply.

In the interests of justice, recognizing that Plaintiff is appearing *pro se*, the undersigned finds that an extension of time is warranted to allow Plaintiff to file a supplemental brief in response to the motion to dismiss. Plaintiff's supplemental brief shall clearly and concisely state an argument supporting the contention that the filing of his Complaint was timely (within sixty (60) days of the

Appeals Council's denial of his request for review on June 22, 2006); or shall state an argument for

equitably tolling the 60-day time period.¹ If the Plaintiff fails to articulate reasonable support for

his opposition to the motion to dismiss, the undersigned may recommend that the motion to dismiss

be granted.

IT IS, THEREFORE, ORDERED that Plaintiff shall file a supplemental brief in response

to the "Motion To Dismiss" (Document No. 4) on or before November 16, 2007, and Defendant

shall file a reply on or before **November 23, 2007**.

The Clerk of Court is directed to send a copy of this Order to the pro se Plaintiff by certified

U.S. Mail.

SO ORDERED.

Signed: October 31, 2007

David C. Keesler

United States Magistrate Judge

¹ Pursuant to the "Notice of Appeals Council Action" dated June 22, 2006 as well as 20 CFR § 422.210(c), the Court will presume that Plaintiff received notice of the Appeals Council decision on or before June 27, 2006.

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